or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Any comments must be filed with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423. A copy of any pleading filed with the Commission should be sent to applicant's representative: Keith G. O'Brien, 1920 N St., NW., Suite 420, Washington, DC 20036.[2]

As a condition to the use of this exemption, any employees adversely affected by this transaction will be protected under *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

Decided: December 15, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–31173 Filed 12–22–95; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–295 and 50–304]

Commonwealth Edison Company (Zion Nuclear Power Station, Unit Nos. 1 and 2)

Exemption

I

Commonwealth Edison Company (ComEd or the licensee) is the holder of Facility Operating License Nos. DPR–39 and DPR–48, which authorize operation of the Zion Nuclear Power Station, Unit Nos. 1 and 2, at a steady-state reactor power level not in excess of 3250 megawatts thermal. The facilities are pressurized water reactors located at the licensee's site in Lake County, Illinois. The licenses provide, among other things, that the Zion Nuclear Power Station is subject to all rules, regulations, and Orders of the U.S. Nuclear Regulatory Commission (the Commission or NRC) now or hereafter in effect.

II

Sections III.C and III.D.3 of 10 CFR part 50, appendix J, require that Type C local leak rate periodic tests shall be performed during reactor shutdown for refueling, or other convenient intervals, but in no case at intervals greater than 2 years. These requirements are reflected in the Zion Technical Specifications (TS) as requirements to perform type C containment leak rate testing in accordance with 10 CFR part 50, appendix J, and approved exemptions.

III

The licensee has determined that certain containment isolation pathways have not been locally leak rate tested (type C tests) as required by appendix J to 10 CFR part 50. In a letter dated August 16, 1995, the licensee requested relief from the requirement to perform the type C containment leak rate tests of certain penetrations and valves in these pathways in accordance with the requirements of sections III.C and III.D of 10 CFR part 50, appendix J. On August 16, 1995 the staff authorized in writing, continued operation of the Zion units in a notice of enforcement discretion (NOED) until such time as the staff acted on the exemption requests. In a letter dated November 20, 1995, the staff granted the schedular exemptions requested in the licensee's letter of August 16, 1995, and granted schedular exemptions for the permanent exemption requests to allow time for additional staff review and until final staff action could be taken. In its letter of November 28, 1995, and supplemented on December 6, 1995, the licensee requested that certain schedular exemption requests be granted as permanent exemptions.

The licensee's letter of November 28, 1995, requested permanent exemptions for components in the following containment penetrations:

Units 1 and 2: P–70, Valve 1(2)SF8767, Refuel Cavity to Purification Pump; P–99, Valve 1(2)SF8787, Purification Pump to Refuel Cavity.

The licensee's letter of November 28, 1995, also requested that the following permanent exemption requests be changed to schedular exemption requests.

Units 1 and 2: P–77, 1(2)PP0101, 1(2)PP0102, 1(2)PP0103, 1(2)PP0104 (Penetration Pressurization to Containment Valve Stations); P–102, 1(2)AOV–RC8029 (Primary Water to the Pressurizer Relief Tank).

For unit 1, the penetrations would be tested during the refueling outage in the fall of 1995, and for unit 2, they would be tested during the next cold shutdown of sufficient duration, and subsequently thereafter as required. For P–77 and P–102, the staff's letter of November 20, 1995, granted schedular exemptions until December 31, 1995, at which time final action will be taken. This schedular exemption still applies for units 1 and 2.

The licensee's letter of November 28, 1995, also requested that for P–44, the permanent exemption request be changed to a schedular exemption request. In a letter dated December 6, 1995, the licensee withdrew the previous requests because it intends to test the penetration in accordance with the requirements of 10 CFR part 50, appendix J.

The licensee's request dated November 28, 1995, justified the proposed permanent exemptions for P–70 and P–99 on the following basis.

For P–70 and P–99, the tests were intended to be performed with air by installing a hole plug to allow a pressure source hookup while maintaining an adequate pressure boundary. During a walkdown of the test boundary, it was identified that the design of the piping for these penetrations does not allow draining of accumulated water in the line and, therefore, prevents a proper leak rate test with air per the requirements of 10 CFR part 50, appendix J. The piping configurations were not known to the licensee when the exemption request dated August 16, 1995, was submitted. For P–70, in addition to not being able to completely drain the line, the dose rates for the location where the hole plug would have to be installed are extremely high, on the order of 1–2 Rem/hour. For P–99, the piping configuration is such that the location of the test connection would pose a personnel safety issue since the connection is located on the side of the refueling cavity approximately 30 feet above the cavity floor. In its submittal dated November 28, 1995, the licensee, therefore, requested a permanent exemption to be allowed to perform the test with water. If the exemptions were approved, dewatering of the lines would not be necessary, and the isolation for the test boundaries would be by other means. The test would be performed by pressurizing the subject valve with water to approximately 100 psig (greater than Pa, which is 47 psig) and inspecting the valve for leakage. The acceptance criterion will be the same as the other tests which use water as a test medium, zero leakage.

The leakage pathways for P–70 and P–99 do not consist of through-valve

[2] Legislation to sunset the Commission on December 31, 1995, and transfer remaining functions is now under consideration in Congress. Until further notice, parties submitting pleadings should continue to use the current name and address.

leakage paths, but rather leakage paths out of containment isolation valves through valve diaphragms. The potential leakage paths are small or restrictive and are through cracks or tears in valve diaphragms. The leakage path for a significant leak to occur requires a sequence of events for which the probability of occurrence is low. The proposed test, with water as the test medium and with a zero leakage acceptance criterion, is conservative enough to provide reasonable assurance of no significant increase in risk to health and safety of the public when compared to testing with air. In addition, seismic support of the systems, missile protection, and, for P–70, the isolation valve seal water system all provide additional assurance that the risk of a significant leak is minimal.

To justify granting an exemption to the requirements of 10 CFR Part 50, Appendix J, a licensee must show that the requirements of 10 CFR 50.12(a)(1) are met. The licensee stated that its exemption requests meet the requirements of 10 CFR 50.12(a)(1), for the following reasons:

Criteria for Granting Exemptions are Met per 10 CFR 50.12(a)(1)

1. The requested exemptions and the activities which would be allowed thereunder are authorized by law.

If the criteria established in 10 CFR 50.12(a) are satisfied, as they are in this case, and if no other prohibition of law exists to preclude the activities which would be authorized by the requested exemption, and there is no such prohibition, the Commission is authorized by law to grant this exemption request.

2. The requested exemption will not present undue risk to the public.

As stated in 10 CFR 50, Appendix J, the purpose of primary containment leak rate testing is to assure that leakage through primary containment and systems and components penetrating primary containment shall not exceed the allowable leakage rate values as specified by the Technical Specifications or associated bases and to ensure that the proper maintenance and repairs are made during the service life of the containment and systems and components penetrating primary containment. The requested exemption is consistent with this intent for those penetrations in that alternate means of ensuring leakage remains acceptably low will be performed as proposed herein.

3. The requested exemption will not endanger the common defense and security.

The common defense and security are not in any way compromised by this exemption request.

In addition, the licensee must show that at least one of the special circumstances, as defined in 10 CFR 50.12(a)(2) is present. One of the special circumstances that a licensee may show to exist is that the application of the regulation in the particular circumstance is not necessary to achieve the underlying purposes of the rule. The purposes of the rule, as stated in Section I of 10 CFR 50, Appendix J, are to ensure that: (1) Leakage through the primary reactor containment and systems and components penetrating containment shall not exceed allowable values, and (2) periodic surveillance of reactor containment penetrations and isolation valves is performed so that proper maintenance and repairs are made. The staff has reviewed the licensee's proposal and has concluded that the proposed alternative tests will confirm the integrity of the subject pathways. Therefore, application of the regulation in this particular circumstance is not necessary to achieve the underlying purpose of the rule.

IV

Sections III.C and III.D.3 of 10 CFR Part 50, Appendix J, require that Type C local leak rate periodic tests shall be performed during reactor shutdown for refueling, or other convenient intervals, but in no case at intervals greater than 2 years.

The licensee proposes exemptions to these sections which would provide relief from the requirement to perform the Type C containment leak rate tests of certain valves in accordance with the requirements of Sections III.C and III.D of 10 CFR Part 50, Appendix J.

The Commission has determined that, pursuant to 10 CFR 50.12(a)(1), this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission further determined that special circumstances, as provided in 10 CFR 50.12(a)(2)(ii), are present justifying the exemption; namely, that the application of the regulation is not necessary to achieve the underlying purpose of the rule.

Therefore the Commission hereby grants the following exemption:

The requirement of 10 CFR Part 50, Appendix J, to pressurize the valves in penetrations P–70 and P–99 with air or nitrogen is not necessary. Instead, the test pressure medium may be water.

Pursuant to 10 CFR 51.32, the Commission has determined that granting these exemptions will not have a significant impact on the human environment (60 FR 63549).

Dated at Rockville, Maryland, this 11th day of December 1995.

For the Nuclear Regulatory Commission.

Jack W. Roe,

Director, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–31254 Filed 12–22–95; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–395]

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Virgil C. Summer Nuclear Station, Unit No. 1; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–12, issued to South Carolina Electric & Gas Company and South Carolina Public Service Authority (the licensee), for operation of the Virgil C. Summer Nuclear Station, Unit No. 1, located in Fairfield County, South Carolina.

Environmental Assessment

Identification of the Proposed Action

The proposed action would support the licensee's plan to implement the revised 10 CFR Part 20, ''Standards for Protection Against Radiation.'' Also, the licensee proposed several editorial changes to improve the clarity of the Technical Specifications (TS). The majority of the licensee's proposal meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9). However, one aspect of the licensee's proposal changes requirements with respect to use of a facility component located outside the restricted area as defined in 10 CFR Part 20. Specifically, requirements for use of the settling ponds will be changed by the proposed amendment.

The proposed action is in accordance with the licensee's application for amendment dated February 21, 1995, as revised on August 31, 1995, and December 4, 1995.

The Need for the Proposed Action

The proposed action is needed to update the license to incorporate the revised requirements of 10 CFR Part 20 (i.e., the need for the proposed action was created by a change in the regulatory requirements).

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that the proposed revision to the radioactive material quantity in the settling ponds will not change the types